

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Adnan M.M. Mjalli et al.
Ser. No. : 10/091,759
Filing Date : March 5, 2002
For : CARBOXAMIDE DERIVATIVES AS THERAPEUTIC
AGENTS
Examiner : Puttlitz, Karl J.
Art Unit : 1621
Atty. Docket : TTP 2001-21-US-A

Mail Stop: Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Petition to Adjust Patent Term Adjustment (PTA)
Indicated in Notice of Allowance

Sir:

1. This is a request for reconsideration of the patent term adjustment (PTA) of 0 days indicated in the Determination of Patent Term Adjustment Under 35 USC § 154(b) that was attached to the Notice of Allowance mailed on October 17, 2007. It is respectfully requested that a total PTA of 132 days be afforded to the present application less any PTA debit associated with the Petition to Revive recently filed in the present application.
2. The issue fee has not yet been paid.
3. The determination of the total PTA of 0 days is an error because the US Patent & Trademark Office's (PTO) PTA calculator failed to account for the PTO's delay in responding to the RCE filed by Applicants on April 28, 2007. Applicants submit that a credit of 325 days is due for delay

associated with the PTO's failure to respond within 4 months to the RCE filed April 28, 2005. Rather than responding within 4 months (i.e., August 28, 2005), the PTO responded on July 19, 2006. Using § 1.703(a)(2), the number of days of delay from August 28, 2005 to July 19, 2006 is 325 days.

Thus, Applicants submit that:

- i) the total PTA credit for PTO delay is 325 days,
 - ii) the total PTA debit for applicant delay is 193 days not including any PTA debit associated with the Petition to Revive recently filed in the present application, and
 - ii) the total PTA under § 1.703(f) is 132 days (i.e., 325 – 193) less any PTA debit associated with the Petition to Revive.
4. The fee set forth in § 1.18(e) (\$200), as required by 37 C.F.R. § 1.705(b)(1), is paid as follows: Please charge deposit account **50-4060** in the amount of \$200.
5. The following statements are required by 37 CFR § 1.705(b)(2)(i).
- i) The correct total PTA credit is 325 days.
 - ii) The basis for the PTA credit of 325 days is under §1.702(a)(2) and is due to the PTO's failure to respond to a reply under 35 USC § 132 not later than 4 months after the date on which the reply was filed.

6. The following statements are required by 37 CFR § 1.705(b)(2)(ii).
 - i) The relevant dates as specified in § 1.703(a)(2) for the total PTA credit are August 29, 2005 (i.e., the day after the date that is 4 months after the date a reply was filed) and July 19, 2006 (i.e., the date of mailing of an action under 35 USC § 132). This period is 325 days.
 - ii) The total PTA under § 1.703(f) is 132 days less any PTA debit associated with the Petition to Revive recently filed in the present application. The amount of 132 days is the total PTA credit for PTO delay of 325 days less the PTA debit for applicant delay of 193 days.
7. Any patent granted on this application is not subject to a terminal disclaimer. 37 CFR § 1.705(b)(2)(iii)
8. The following statements are required by 37 CFR § 1.705(b)(2)(iv)(A) and list of any circumstances during the prosecution of this application constituting a failure to engage in reasonable efforts to conclude processing or examination of the above-identified patent application as set forth in § 1.704.
 - i) The Response filed December 29, 2003 was not within 3 months of the Office Action mailed July 29, 2003, and under § 1.704(b), the period of adjustment for Applicants' delay is the period beginning on the day after the date that is 3 months after the date of mailing of the Office Action and ending on the date the reply was filed. This period is 61 days.

- ii) The Response filed January 22, 2007 was not within 3 months of the Office Action mailed July 19, 2006, and under § 1.704(b), the period of adjustment for Applicants' delay is the period beginning on the day after the date that is 3 months after the date of mailing of the Office Action and ending on the date the reply was filed. This period is 95 days.
- iii) The Response filed January 22, 2007 was not within 6 months of the Office Action mailed July 19, 2006, which set a shortened statutory period for reply of 3 months. Thus the present application should have been deemed abandoned on September 19, 2007 by the USPTO for failure to file a timely reply. On December 21, 2007, Applicants filed a Petition To Revive An Application For Patent Abandoned Unintentionally Under 37 CFR § 1.137(b). The Office of Petitions has not issued a decision on the Petition to Revive as of the filing date of this Petition to Adjust PTA.

Under § 1.704(c)(3) the present application deserves PTA debits for delay for the period

beginning on the date of abandonment . . . and ending on the earlier of: (i) The date of mailing of the decision reviving the application . . . ; or (ii) The date that is four months after the date the grantable petition to revive the application . . . fee was filed.

At the time of filing this Petition to Adjust PTA, the period of delay associated with filing the Petition to Revive can not be determined.

- iv) The Amendment under § 1.312 was filed after the Notice of Allowance was mailed. The Amendment under § 1.312 was filed on November 8, 2007. A response to the amendment was mailed

December 14, 2007. Under § 1.704(c)(10), the period of adjustment for delay associated with the Amendment under § 1.312 is the period beginning on the date the amendment was filed and ending on the mailing date of the Office action or notice in response to the amendment. This period is 37 days.

Respectfully submitted,

Date: 21-December-2007

/Samuel B. Rollins/
Samuel B. Rollins
Registration No. 52,180

TransTech Pharma, Inc.
4170 Mendenhall Oaks Pkwy
High Point, NC 27265
Phone: (336) 841-0300 ext. 159
Fax: (336) 841-0310